

Monday, February 1, 2010

Division One

A121545 – The People, v. Jermaine Merrell Hollie.

By The Court: The petition for rehearing is denied. Marchiano, P.J.

Division Three

A125389 – In re C.P., a Person Coming Under the Juvenile Court Law. The People, v. C.P.

The judgment is affirmed. Siggins, J., We Concur: McGuiness, P.J., Pollak, J.
(Not for Publication.)

Division Five

A124154 – Woodland Park Management, LLC, v. City of East Palo Alto Rent Stabilization Board and City of East Palo Alto.

The order, dated November 21, 2008, awarding attorney fees is reversed. City is to recover costs on appeal. Bruiniers, J., We Concur: Jones, P.J., Needham, J.
(Certified for Publication.)

Tuesday, February 2, 2010

Division Two

A124026 – The People, v. Aloysius McElroy.

Our independent review of the record reveals no arguable issues other than the exposure of appellant's custodial status to the jury, discussed above. The judgment is affirmed. Lambden, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Four

A122999 – In re T.S., a Person Coming Under the Juvenile Court Law. The People, v. T.S.

The order is affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Wednesday, February 3, 2010

Division One

A126878 – A.S., v. The Superior Court of San Francisco City and County, San Francisco Human Services Agency, R.P.I.

The request for stay is denied and the petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The decision is final in this court immediately. Margulies, Acting P.J., We Concur: Dondero, J., Banke, J. (Not for Publication.)

Division Two

A124722 – County of Alameda, v. Pierre Washington, Karen Riley, R.P.I.

The appeal is dismissed. In the interests of justice, each party shall bear his or her own costs on appeal. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

A127101 – R.H., v. The Superior Court of Alameda County, Alameda County Social Services Agency, R.P.I.

The petition for writ of mandate is denied. Our decision is final as to this court immediately. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

Thursday, February 4, 2010

Division Three

A121997 – The People, v. Earl Stefanson.

The judgment is affirmed. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

Division Five

A123483 – The People, v. John Cunningham.

By The Court: It is ordered that the opinion filed herein on January 25, 2010, be modified as follows: (See Order.) Respondent's petition for rehearing is denied. Simons, Acting P.J. (Not for Publication.)

Thursday, February 4, 2010(Continued)

**A125281 – In re J.J., a Person Coming Under the Juvenile Court Law.
Contra Costa County Children & Family Services Bureau, v. Kim W.**

The order is affirmed. Simons, J., We Concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

Friday, February 5, 2010

Division One

A121521 – The People, v. Manuel Mares.

The judgment of conviction is affirmed. Marchiano, P.J., We Concur: Margulies, J., Dondero, J. (Not for Publication.)

A124599 – The People, v. The Superior Court of Sonoma County, Matthew David Phillips, R.P.I.

A124795 – The People, v. Matthew David Phillips.

Let a peremptory writ of mandate issue commanding the respondent court to vacate the grant of probation on counts 4, 7, and 10, and the sentence imposed on counts 3,6, and 8, and to resentence defendant on all counts in accordance with law and the views expressed in this opinion. Margulies, J., We Concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

A124367 – Mark Thierman et al., John Kelson.

The judgment is modified to strike the attorney fee award of \$10,169.50 to respondent. As so modified, the judgment is affirmed. Costs on appeal are awarded to respondent. Margulies, J., We Concur: Marchiano, P.J., Banke, J. (Not for Publication.)

Division Two

A125012 – In re Henry James Koehler, on Habeas Corpus.

Petitioner's petition is treated as one for prohibition, and is granted, and the order of contempt is reversed and annulled. Richman, J., We Concur: Kline, P.J., Haerle, J. (Certified for Publication.)

Division Three

A122199 – The People, v. Willis Lavone Creech, Jr.

Friday, February 5, 2010(Continued)

The judgment is affirmed. Siggins, J., We Concur: McGuiness, P.J., Jenkins, J. (Not for Publication.)

Division Four

A123006 – Les Jankey et al., v. Song Koo Lee etc.

The judgment is affirmed. Lee is entitled to his costs and an award of attorney fees on appeal in an amount to be determined in the trial court. (See Cal. Rules of Court, rule 8.278(a)(1); *Morcos v. Board of Retirement* (1990) 51 Cal.3d 924, 927 ["statutes authorizing attorney fee awards in lower tribunals include attorney fees incurred on appeals of decision from those lower tribunals."].) Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J. (Certified for Partial Publication.)

Division Five

A124534 – In re E.O. et al., Persons Coming Under the Juvenile Court Law. San Francisco Human Services Agency, v. N.M.

The order declining to award appellant presumed father status is affirmed. Jones, P.J., We Concur: Simons, J., Needham, J. (Not for Publication.)

A120940, A122167, A122548 – Scheherezade Sharabianlou et al., v. Ronald M. Karp et al.

The portion of the judgment awarding damages, prejudgment interest, and attorney fees to the Berensteins is reversed. The portion of the judgment awarding damages to the Sharabianlous is affirmed. The judgment in favor of the Karpis is affirmed. The matter is remanded to the trial court for both a redetermination of who is the prevailing party in light of our decision and of the amount of attorney fees. The Karpis shall recover their costs on appeal. (Cal. Rules of Court, rule 8.278(a)(1), (a)(2).) The Sharabianlous and the Berensteins shall each bear their own costs . (Cal. Rules of Court:, rule 8.278(a)(3).) Needham, J., We Concur: Jones, P.J., Bruiniers, J. (Certified for Partial Publication.)

Monday, February 8, 2010

Division Two

A125310 – The People, v. Tony Shavers.

Our independent review having revealed no arguable issues that require further briefing, the judgment entered upon denial of appellant's motion to withdraw his plea is affirmed. Kline, P.J., We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Monday, February 8, 2010(Continued)

A122026 & A123889 – Jorge Chacon et al. v. Edward Litke et al.

By The Court: Appellants' request for rehearing is denied. The opinion in the above-referenced matter filed on January 19, 2010, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is ordered. Kline, P.J. (Certified for Publication.)

A120651 – Mashhour Khoury, v. Maher Martha.

The judgment is affirmed. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, February 8, 2010

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Pollak, J. and Jenkins, J.; and B. Robbins, Deputy Clerk.

A122004 Man-Li Huang,

v.

California Pacific Medical Center.

Cause called and argued by Alan B. Bayer, counsel for appellant, and Brendan Begley, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Presiding Justice McGuiness left the bench and Justice Siggins joined the bench. Justice Pollak presided over the remainder of the morning calendar.

A120934 Fullerton Medical Group,

v.

Sideman & Bancroft, et al.

Cause called and argued by Frederick J. Geonetta, counsel for appellant, and Joseph McMonigle, counsel for respondents. Cause ordered submitted.

A125894 In re Marriage of Dobbs.

Tonina Dobbs,

v.

Richard Dobbs.

Cause called and argued by Stephen D. Geist, counsel for appellant, via teleconference, and Doris Hale Slater, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED

Monday, February 8, 2010(Continued)

Division Five

A122975 – Vanguard Care Rental USA, Inc., v. County of San Mateo.

The judgment is affirmed. Respondent is to recover costs on appeal. Bruiniers, J., We Concur: Simons, Acting P.J., Needham, J. (Certified for Publication.)

Tuesday, February 9, 2010

Division One

A127033 – L.P., v. San Francisco City and County Superior Court, San Francisco Human Services Agency et al., R.P.I.

The request for stay is denied and the petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The decision is final in this court immediately. Marchiano, P.J., We Concur: Margulies, J., Banke, J. (Not for Publication.)

A123764 – OPT Golden Hills Vac LLC, v. Sav Max Foods, Inc.

The judgment against OPT and in favor of Sav Max is reversed, and the matter is remanded with instructions to enter declaratory judgment for OPT consistent with this opinion. In light of our disposition, we do not reach the issues raised by Sav Max in its cross-appeal. OPT is awarded its costs on appeal. Banke, J., We Concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

A122651 – In re Noreen G., et. al., Minors. Ronald R., et al., v. Jamie R., et al.

Although the matter must be remanded with directions to the court to ensure ICWA compliance, we decline to reverse the judgment that terminated parental rights. Instead, we order a limited remand with directions to the trial court to effectuate proper inquiry, and compliance with the notice provisions of the ICWA if Indian heritage is indicated. If, after proper inquiry and notice a tribe determines the minors are Indian children, the parents may petition the court to invalidate the termination of parental rights upon a showing that such action violated the provisions of the ICWA. If the minors are not found to be Indian children, the judgment is affirmed, with the exception of that part of the judgment that granted visitation to the parents. The visitation order is

reversed. Dondero, J., We Concur: Marchiano, P.J., Margulies, J. (Certified for Partial Publication.)

Tuesday, February 9, 2010(Continued)

Division Two

A118764 – The People, v. Jose Daniel Rodriguez.

The abstract of judgment is modified to strike the references to Penal Code sections 12022.3 and 667.61 with regard to counts 26 and 44 respectively. The trial court is directed to forward a certified copy of the corrected abstract of judgment to the Department of Corrections and Rehabilitation. So modified, the judgment is affirmed. Lambden, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, February 9, 2010

The court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, San Francisco, California. Present: Ruvolo, P.J., and Reardon, J.; Annie Reasoner, Deputy Clerk; CHP Officer Bobby Singh, Bailiff.

A125756 In re Michael De Vries on Habeas Corpus
Michael De Vries
v.
People of the State of California

Cause called. Both parties waived Justice Sepulveda's presence on the bench. Benjamin Ramos appeared by telephone and argued for petitioner. Steven Warner argued for respondent State of California. Submission of this case is deferred pending review of the oral argument recording by Sepulveda, J.

At this point, Rivera, J., joined the bench. Argument continued before Ruvolo, P. J., Reardon, J., and Rivera, J.

A125585 Vickie Elliott
v.
Workers Compensation Appeals Board and
News Group/Gallagher Bassett Services
Cause called. Mark Gearheart argued for petitioner Elliott. Paul LaVeque argued for respondent News Group. Cause submitted.

Court adjourned at 9:47 a.m.

Wednesday, February 10, 2010

Division One

A123255 – Estate of Maureen Kennedy Salaman, Deceased. Sean Morton et al., v. Jerry W. Roberts et al., as Special Administrators, etc.

The order denying the motion to enforce the settlement is affirmed. Marchiano, P.J., We Concur: Margulies, J., Dondero, J. (Not for Publication.)

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Wednesday, February 10, 2010

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Margulies, Justice, Banke, Justice, Fred Abad, Deputy Clerk, and CHP Officer Bobby Singh, Bailiff.

A123431 The People,

v.

Anthony G. Bennett.

Cause called and argued by David Martin, counsel for appellant, and Christopher Grove, counsel for respondent. Cause ordered submitted.

A122550 The People,

v.

Adamu Taye Chan.

Cause called and argued by Dennis Riordan, counsel for appellant, and Seth Schalit, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Dondero joined the bench. Justice Banke remained on the bench. Panel for the next case on calendar, J. Marchiano, J. Margulies, and J. Dondero.

A123864 John Roeder,

v.

Alan Gardner.

Cause called and argued by James Roberts, counsel for appellant, Maria Zeyrek, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Marchiano left the bench and Justice Margulies presided over the remainder of the calendar. Panel for the next case on calendar, J. Margulies, J. Dondero, and Justice Banke.

A125053 The People,
v.
R.A.

Cause called and argued by Anne Mania, counsel for appellant, and Ronald Niver, counsel for respondent. Cause ordered submitted.

Continued

A122205 Clear Lake Riviera Community,
v.
Robert L. Cramer et al.

Cause called and argued by Terry Ewing, counsel for appellants, Lewis Warren, counsel for respondent. Cause ordered submitted.

A125152 Veronica Noskevich, a Minor, etc.,
v.
Eden Medical Center.

Cause called and argued by Scott Peebles, counsel for appellant, Brett Rosenthal, counsel for respondent argued via telephonically. Cause ordered submitted.

Court adjourned.

Wednesday, February 10, 2010(Continued)

Division Three

A125280 – Rudy D. Martin, v. Lawrence Miller.

By The Court: The petition for rehearing is denied. McGuiness, P.J.

**A124266 – In re the Marriage of Giacomo A. Russo and Carol L. Smith.
Giacomo A. Russo, v. Carol L. Smith.**

The order awarding attorney fees and costs is affirmed. Siggins, J., We Concur: Pollak, Acting P.J., Jenkins, J. (Not for Publication.)

Division Four

A121292 – Henricus Van Der Steen, v. Sygen International, PLC, et al.

The judgment is reversed and the cause is remanded to the trial court for further proceedings limited to a determination of van der Steen's damages due to defendants' failure to pay the repatriation costs. The parties shall bear their own costs on appeal. Rivera, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A124764 – The People, v. John F. Weisheitinger.

The order of the trial court setting restitution in the amount of \$34,489.56 is reversed and the matter is remanded for the trial court to conduct a victim restitution hearing. In all other regards, the judgment is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

A124905 – The People, v. Levarn Cavers, Jr.

The judgment is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A123199 – The People, v. Rene Mayorga.

The judgment is affirmed. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Division Five

A117264 – Tolibas Construction Inc., v. Garry Wang et al.
By The Court: The Petition for rehearing is denied. Jones, P.J.

Thursday, February 11, 2010

Division One

A123679 – Sheldon Caughey, v. Cara Dibnah.

The judgment is affirmed. Margulies, J., We Concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

A123878 – The People, v. Leslie Gordon Smith.

By The Court: The court has received defendant Leslie Gordon Smith's letter of February 3, 2010, with his letter of January 14, 2010, to his attorney David L. Bernstein attached. The opinion in the case was filed on January 29, 2010. We have treated defendant's letter of January 14, 2010, as defendant's supplemental brief. Our opinion filed January 29, 2010, is modified as follows: On page 1, line 6, the fourth sentence, which reads in its entirety, "No supplemental brief has been filed," shall now be modified to say "Defendant filed a letter supplemental brief that the court has reviewed." The opinion otherwise remains unchanged. Marchiano, P.J. (Not for Publication.)

Division Two

A124028 – Emmanuel Addo, v. Regents of the University of California.

The order sustaining the demurrer to appellant's FAC without leave to amend and the resulting judgment in favor of the Regents are both affirmed. Haerle, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A121153 – The People, v. Vincent Timmons.

The judgment is affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

A125894 – In re the Marriage of Richard Dobbs and Tonina Dobbs. Richard Dobbs, v. Tonina Dobbs.

The judgment is remanded for reconsideration of the amount and retroactivity of spousal support consistent with this opinion, and is affirmed in all other respects. The parties shall bear their respective costs on appeal. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

A121528, A123360 – The People, v. Robert Anthony Ventura.

The judgment is affirmed. Siggins, J., We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

Thursday, February 11, 2010(Continued)

Division Four

A119333 – Sandra Terzian-Feliz, v. Vartan Ajamian et al.

The judgment is affirmed. Reardon, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

A124221 – California Correctional Peace Officers' Association et al., v. State of California et al.

The judgment is affirmed. Costs on appeal are awarded to respondent. Ruvolo, P.J., We Concur: Reardon, J., Sepulveda, J. (Certified for Publication.)

A122412 – The People, v. Faustino Ayala.

The judgment is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Rivera, J. (Certified for Partial Publication.)

A124694 – The People, v. Nathan Gideon.

By The Court: It is ordered that the opinion filed herein on January 29, 2010, be modified as follows: On page 3, the third, fourth and fifth sentences of the first paragraph in par I.B., starting with "After a preliminary hearing, " and ending with "answer for homicide" are deleted and the following sentence is inserted in their place: After a preliminary hearing, Judge O'Malley held Gideon to answer for the murder charge set out in the complaint. There is no substantive change in the judgment. Ruvolo, P.J. (Not for Publication.)

A120746 – The People, v. Bruce Oliver Braun.

The judgments are affirmed. Rivera, J., We Concur: Ruvolo, P.J., Sepulveda, J.
(Not for Publication.)

Division Five

A123784 – Margaret A. Seltzer, v. Michael A. Barnes.

The trial court's order denying appellant's motion to strike under section 425.16 is reversed. The matter is remanded with instructions to vacate the order, enter a new order granting the motion, and conduct further proceedings consistent with this decision. Simons, Acting P.J., We Concur: Needham, J., Bruiniers, J. (Not for Publication.)

Tuesday, February 16, 2010

Division One

A120738 – Yok Hing Law, v. Maria Rita Corral et al.

The judgment is affirmed. Dondero, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A124733 – The People, v. David L. McBurney.

Our independent review having found no arguable issues that require briefing, the judgment of conviction is affirmed. Richman, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A122004 – Man-Li Huang, v. California Pacific Medical Center, et al.

The August 8, 2008 judgment is affirmed. McGuiness, P.J., We Concur: Pollak, J., Jenkins, J. (Not for Publication.)

Division Five

A123042 – The People, v. Antonio Plascencia Pelayo.

The judgment is affirmed. Bruiniers, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Thursday, February 18, 2010

Division Two

A125661, A125931 – John Martin, v. Gillis & Lane, Inc.

The judgment is affirmed. Plaintiff shall recover his costs on appeal. Haerle, Acting P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

A124277 – The People, v. Craig Douglas Johnson.

The judgment is affirmed. Lambden, J., We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

Thursday, February 18, 2010(Continued)

Division Three

A120934 – Fullerton Medical Group, v. Sideman & Bancroft et al.

The judgment is reversed. Siggins, J., We Concur: Pollak, Acting P.J., Jenkins, J. (Not for Publication.)

A123823 – The People, v. Gene Arnold Peplinski.

The judgment is affirmed. Jenkins, J., We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

Thursday, February 18, 2010

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Needham, Jr., J., Bruiniers, J., and Joshua Chow, Deputy Clerk.

A123106 Woddfin Suite Hotels,
 v.
 City of Emeryville,
Cause called and argued by Jacques Bernard LeBoeuf, counsel for appellant, and by Leah Castella, counsel for respondent. Cause ordered submitted.

A124511 The People,
 v.
 R.A.,
Cause called and argued by Jeffrey A. Glick, counsel for appellant, and by Michael E. Banister, counsel for respondent. Cause ordered submitted.

A125554 Bonny Schellinger,
 v.
 Denise Schellinger,
Cause called and argued by Jason M. Skaggs, counsel for appellant, and by Aaron Minnis, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Needham left the bench and Justice Simons entered.

A123930 Central Concrete Supply Co., Inc.,
 v.
 Michael Bursak,
Cause called and argued by Michael Bursak, appellant, and by Jenny Smith, counsel for respondent. Cause ordered submitted.

A125659 Page Mill Management,
 v.
 City of East Palo Alto et al.,
Cause called and argued by Rochelle Browne, counsel for appellant, and by Christine Griffith, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Jones left the bench and Justice Needham entered.

A123885 Page Mill Management,
 v.
 City of East Palo Alto et al.,
 Cause called and argued by Rochelle Browne, counsel for appellant, and by
 Christine Griffith, counsel for respondent. Cause ordered submitted.

A121647 The People,
 v.
 Antonio Torres Pulido,
 Cause called and argued by Violet Grayson, counsel for appellant, and by Ann P.
 Wathen, counsel for respondent. Cause ordered submitted.

A125276 Stephen Davies,
 v.
 Stephen Schectman,
 Cause called and argued by Stephen Davies, appellant. Cause ordered
 submitted.

Court recessed until 1:30 p.m.

A121490 Craig Mathis et al.,
 v.
 Ivan Nahlik et al.,
 Cause called and argued by Thiele R. Dunaway, counsel for appellant, and by
 Lynne M. Yerkes, counsel for respondent. Cause ordered submitted.

A122030 The People,
 v.
 Jennifer McPike,
 Cause called and argued by Peter Frederick Goldscheider, counsel for appellant,
 and by Jason Sjoberg, counsel for respondent. Cause ordered submitted.

A123451 The People,
 v.
 Elver Bernardino Puluc-Sique,
 Cause called and argued by Jonathan David Soglin, counsel for appellant, and by
 Jason Sjoberg, counsel for respondent. Cause ordered submitted.

Court adjourned at 2:49 p.m.

Friday, February 19, 2010

Division One

A123658 – The People, v. Jacob Ray Garcia.

The judgment of the trial court is affirmed. Margulies, J., We Concur: Marchiano, P.J., Banke, J. (Not for Publication.)

Division Two

A123613 – The People, v. Earl Julian Dixon.

The judgment is affirmed. Lambden, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A124571 – In re D.C., a Person Coming Under the Juvenile Court Law. The People, v. D.C.

The order appealed from is affirmed. Haerle, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Monday, February 22, 2010

Division One

A123774 – In re Isaiah L., a Person Coming Under the Juvenile Court Law. The People, v. Isaiah L.

The jurisdictional and dispositional order are affirmed. Dondero, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A122668 – Michael Chapman et al., v. Allied Waste Industries et al.

The judgment is affirmed. Dondero, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A123431 – The People, v. Anthony G. Bennett.

The judgment is affirmed. Banke, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A125000 – Cliff Gardner et al., Arnold Schwarzenegger et al.

The fee order is affirmed. Plaintiffs are entitled to recover from defendants their reasonable attorney fees on appeal in an amount to be determined by the trial court. Marchiano, P.J., We Concur: Margulies, J., Banke, J. (Not for Publication.)

Monday, February 22, 2010(Continued)

A123864 – John Roeder, v. Alan Gardner.

The order on the anti-SLAPP motion is reversed insofar as to strikes the causes of action for extortion and defamation, and awards attorney fees. The balance of the order is affirmed. The trial court is directed to reconsider the amount of the fee award in light of our decision. Defendant is entitled to his reasonable attorney fees and costs incurred on appeal in connection with the causes of action for disclosure of private facts and intentional infliction of emotional distress, in an amount to be determined by the trial court. The parties will otherwise bear their own costs in this appeal. Marchiano, P.J., We Concur: Margulies, J., Dondero, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Monday, February 22, 2010

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Pollak, J. and Jenkins, J.; and F. Castuera, Deputy Clerk.

A123865 Hal Reiland,

v.

Alberto Limon.

Cause called and argued by Hal Reiland, appearing in pro. per., and Richard Veres, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED

Monday, February 22, 2010(Continued)

Division Four

A123929 – In re J.C., a Person Coming Under the Juvenile Court Law. The People, v. J.C.

Because we conclude the juvenile court erred in denying Minor's motion to dismiss as to count II – the only count the court found true – the order appealed from is reversed. Rivera, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Division Five

A124920 – Interstate Fire and Casualty Insurance Company, v. Cleveland Wrecking Company.

The judgment is vacated and the order sustaining the demurrer to appellant's first amended complaint is reversed. The trial court shall enter a new order overruling the demurrer. Respondent shall pay appellant for appellant's costs on appeal. Needham, J., We Concur: Simons, Acting P.J., Bruiniers, J. (Certified for Publication.)

Tuesday, February 23, 2010

Division One

A124980 – The People, v. Jimmy Rodgers.

The judgment is affirmed. Dondero, J., We Concur: Margulies, Acting P.J., Banke, J. (Not for Publication.)

Division Two

A125638 – The People, v. Ronald Bikash Narayan.

Our independent review of the record reveals no arguable issues other than the sufficiency of the court's Penal Code section 1016.5 advisement and validity of appellant's plea, discussed above. The judgment is affirmed. Lambden, J., We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

A124385 – The People, v. Helene M. Biggane.

The order granting probation on the conditions specified is affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

A123865 – Jose Alberto Limon, v. Harold P. Reiland, Jr.

The judgment is affirmed. Defendant shall bear costs on appeal.¹ Jenkins, J., We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

¹ Respondent's request that sanctions be imposed against appellant for purportedly filing a frivolous appeal and engaging in dilatory tactics on appeal is hereby denied.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, February 23, 2010

The court convened at 9:46 a.m. in its courtroom at 350 McAllister Street, San Francisco, California. Present: Ruvolo, P.J., Reardon, J., and Sepulveda, J.; Annie Reasoner, Deputy Clerk; CHP Officer Harjit Singh, Bailiff.

A125618 CHEVRON PRODUCTS COMPANY and
 CITY OF RICHMOND, et al,
 v.
 EARTHJUSTICE, et al

Cause called. Ronald Van Buskirk argued for appellant Chevron. Ellen J. Garber argued for appellant City of Richmond. William Rostov argued for respondents Earth justice, et al. Cause submitted.

At this point, the court recessed briefly. Argument resumed at 10:41 a.m. before Ruvolo, P. J., Reardon, J., and Sepulveda, J.

A124410 DANIEL HELM, et al,
 v.
 LINCOLN AIR CONDITIONING CORPORATION

Cause called. Russell A. Robinson argued for appellant Helm, et al. Brian Gunn argued for respondent Lincoln Air Conditioning. Cause submitted.

A123948 LESLEY EMMINGTON JONES, et al
 v.
 REGENTS OF THE UNIVERSITY OF CALIFORNIA

Cause called. Richard Drury argued for appellant Jones, et al. Michael Zischke argued for respondent Regents. Cause submitted.

Court was recessed at 11:25 a.m.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, February 23, 2010

The Court reconvened at 1:30 p.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P. J., Reardon, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Ricky Franklin, Bailiff.

A125761 Michael George Maxwell

v.

Chris Konger

Cause called. Michael Bracamontes argued for appellant Konger. Respondent in pro per Michael George Maxwell did not appear. Cause submitted.

At this point, the court reconstituted itself to include Ruvolo, P. J., Reardon, J., and Sepulveda, J.

A124725 Sean Mahsoul

v.

Amjed Shehadeh et al.

Cause called. Gail Ganaja teleargued for appellant Mahsoul. Andrew J. Sommer argued for respondents. Cause submitted.

At this point, the court reconstituted itself to include Ruvolo, P. J., Sepulveda, J., and Rivera, J.

A120183 People

v.

Alfonza Alvon Phillips

Cause called. Randi Covin argued for appellant Phillips. Chris Wei argued for respondent. Cause submitted.

A124122 Judith Ivory et al.

v.

TSLF, LLC et al.

Cause called. Guy Stilson argued for appellants TSLF et al. Andrew Klimenko argued for respondents. Cause submitted.

Court adjourned at 2:41 p.m.

Tuesday, February 23, 2010(Continued)

Division Five

A125834 – State Compensation Insurance Fund, v. The Superior Court of San Francisco County, Onvoi Business Solutions, Inc., R.P.I.

The petition for writ of mandate is granted. Let a peremptory writ of mandate issue commanding respondent superior court to vacate its order of August 6, 2009, granting real party in interest's motion for summary adjudication with respect to the sixth cause of action in petitioner's first amended complaint and to enter a new and different order denying that motion. The alternative writ, having served its purpose, is discharged. To prevent any further delay in the proceedings below, this decision shall be final 10 calendar days after the date on which this opinion is filed. (cal. Rules of Court, rule 8.490(b)(3).) The previously issued stay shall dissolve upon issuance of the remittitur. Petitioner is entitled to recover its costs in this writ proceeding. (cal. Rules of Court, rule 8.493(a)(1)(A).) Needham, J., We Concur: Simons, Acting P.J., Bruiniers, J. (Not for Publication.)

A125144 – In re Angel A., et al., Person Coming Under the Juvenile Court Law. Napa County Department of Health and Human Services, v. Amber A.

The orders denying Mother's section 388 petition for renewed reunification services and terminating her parental rights are affirmed. Jones, P.J., We Concur: Simons, J., Bruiniers, J. (Not for Publication.)

Wednesday, February 24, 2010

Division One

A125053 – In re R.A., a Person Coming Under the Juvenile Court Law. The People, v. R.A.

The finding that R.A. violated Penal Code section 12101, subdivision (a)(1), is reversed. In all other respects, the dispositional order of the juvenile court is affirmed. Banke, J., We Concur: Margulies, Acting P.J., Dondero, J. (Not for Publication.)

A126022 – The People, v. Gene James Hanks.

We direct the trial court to strike the \$560 presentence report fee, and to forward a corrected copy of the abstract of the judgment to the Department of Corrections and

Rehabilitation. As so modified, the judgment is affirmed. Dondero, J., We Concur: Marchiano, P.J., Banke, J. (Not for Publication.)

Wednesday, February 24, 2010(Continued)

A122452 – James Stewart et al., v. Rolling Stone LLC et al.

By The Court: It is ordered that the opinion filed herein on January 28, 2010, be modified in the following particulars: (See Order.) The petition for rehearing is denied. Marchiano, P.J. (Certified for Publication.)

A123859 – Parchester Village Neighborhood Council et al., v. City of Richmond et al.

The judgment granting plaintiffs' petition for writ of mandate and requiring the agreement between the City and the Tribe to be vacated, set aside, and voided is reversed. The matter is remanded to the trial court with directions to enter a new judgment denying plaintiffs' petition for writ of mandate. Appellant will recover costs on appeal. Dondero, J., We Concur: Marchiano, P.J., Margulies, J. (Certified for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Wednesday, February 24, 2010

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J., Richman, J., Officer Franklin and S. Wheeler, Deputy Clerk.

At this point of the proceedings, Presiding Justice Kline announces that the panel in the first case consists of himself, J. Haerle, and J. Lambden, the panel in the second case consists of himself, J. Lambden, and J. Richman, and the panel for the remaining cases on calendar consists of himself, J. Haerle and J. Richman.

A121959 The People,
 v.
 Christian Thomas Alvarez.
Cause called and argued by Richard Michael Doctoroff, counsel for appellant, and Amy Haddix, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

At this point of the proceedings, Justice Haerle was present, but did not participate in the second case.

A122635 The People,
 v.
 Reuben Joel Nahouraii.
Cause called and argued by William Panzer, counsel for appellant, and

Rene A. Chacon, Deputy Attorney General, counsel for respondent.
Cause ordered submitted.

At this point of the proceedings, Justice Lambden left the bench for the remainder of the calendar.

A121763 The People,
 v.
 Yvonne Lynn Chappelone.

A121764 The People,
 v.
 Michael Chappelone.
Cause called and argued by Oliver Northrup, Jr., counsel for appellant
Yvonne Lynn Chappelone, Sara Lillian Zimmerman, counsel for appellant
Michael Chappelone, and Margo Yu, Deputy Attorney General, counsel
for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Wednesday, February 24, 2010

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Haerle, Acting P.J., Lambden, J., Richman, J., Officer Singh and S. Wheeler, Deputy Clerk.

A123112/ Paul G. Robinson et al.,
A124359 v.

Craig Greenwood et al.;
Paul G. Robinson et al.,

v.

Craig Greenwood.

Cause called and argued by Eric Haiman, counsel for appellant, Shannon Ball Jones, counsel for respondent Kevin Nord and Security Pacific, and Gerald Joseph Beaudoin, counsel for respondent/appellant Craig Greenwood. Cause ordered submitted.

A124351/ Karuk Tribe Of Northern California et al.,
A124369/ v.

A124370 California Regional Water Quality Control Board, North Coast;
PacifiCorp Inc.

Cause called and argued by Michael Lozeau, counsel for appellant/respondent Karuk Tribe of Northern California, John Davidson, counsel for respondent/appellant California Regional Water Quality Control Board, and Karl Samuel Lytz, counsel for real party in interest PacifiCorp Inc. Cause ordered submitted.

COURT ADJOURNED.

Wednesday, February 24, 2010(Continued)

Division Three

A125278 – In re Z.P. et al., Persons Coming Under the Juvenile Court Law. San Francisco Human Services Agency, v. D.P.

The jurisdictional and dispositional ordered are affirmed. Pollak, J., We Concur: McGuinness, P.J., Jenkins, J. (Not for Publication.)

Division Four

A121317 – Taylor Korobow, v. Douglas Ross Construction, Inc., et al.

The judgments are affirmed. Rivera, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

A125156 – In re H.W., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. Lester W.

The order is affirmed. Reardon, Acting P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A122141 – The People, v. Emanuel Parlor.

The judgment is affirmed. Ruvolo, P.J., We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Division Five

A125554 – Bonny Schellinger, Denice Schellinger, v. Asbestos Defendants, et al.

The order is vacated. The matter is remanded to the trial court to determine anew the respective rights of decedent's heirs to the settlement funds and to order distribution of the funds accordingly. Respondent shall pay appellant's costs on appeal. Needham, J., We Concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

A122722 – Great American Insurance Company, v. Fidelity and Guaranty Insurance Company.

The order granting summary judgment to Great American is affirmed. We express no opinions on the merits of any unadjudicated issues still pending before the trial court. Bruiniers, J., We Concur: Jones, P.J., Needham, J. (Not for Publication.)

Thursday, February 25, 2010

Division One

A125163 – Renee Rose, v. Synergenics, LLC, et al.

The trial court's order denying the motion to compel arbitration is affirmed. Dondero, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A124475 – The People, v. Bennie Lee Alder.

The judgment is affirmed. Marchiano, P.J., We Concur: Margulies, J., Dondero, J. (Not for Publication.)

A121198 – The People, v. Thomas Kirkland.

Accordingly, the judgment is affirmed. Dondero, J., We Concur: Margulies, Acting P.J., Banke, J. (Not for Publication.)

Division Two

A124824 – The People, v. Richard B. Kirby.

The judgment is affirmed. Haerle, Acting P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

A124657 – Arin Karol Weitzman, v. California Department of Fair Employment and Housing, San Francisco District Office.

The judgment is affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

A124261 – John Bango, v. James Mayer.

The judgment is affirmed. Mayer shall recover his costs on appeal. Siggins, J.,
We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

A123238 – The People, v. Timothy Allen.

The judgment is affirmed. Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J.
(Not for Publication.)

Thursday, February 25, 2010(Continued)

A123305 – Patrick Hellan, v. Ray Bronner.

The order of September 2, 2008, denying Bronner's special motion to strike is
affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for
Publication.)

**A125585 – Vickie Elliott, v. Workers' Compensation Appeals Board,
Newsgroup of Sacramento et al.**

We reverse the WCAB's decision after reconsideration and remand with
directions as stated above. Reardon, J., We Concur: Ruvolo, P.J., Rivera, J. (Certified
for Publication.)

**A125231 – In re Jahan G., a Person Coming Under the Juvenile Court Law.
Alameda County Social Services Agency, v. Kenneth R.**

The April 28, 2009 order suspending visitation is affirmed. Bruiniers, J., We
Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

Division Five

A122797 – The People, v. Romeo Ventura Huerta.

The judgment is affirmed. Simons, J., We Concur: Jones, P.J., Needham, J.
(Not for Publication.)

Friday, February 26, 2010

Division One

A124592 – The People, v. Gustavo Sanchez Perez.

The judgment is affirmed. Margulies, Acting P.J., We Concur: Dondero, J., Banke, J. (Not for Publication.)

A125509 – The People, v. Michael Grady.

The judgment is affirmed. Banke, J., We Concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

A122205 – Clear Lake Riviera Community Association, v. Robert Cramer et al.

The judgment of the trial court is affirmed. Margulies, Acting P.J., We Concur: Dondero, J., Banke, J. (Certified for Publication.)

Friday, February 26, 2010(Continued)

Division Four

A125641 – The People, v. Harold Lamar Scoggins.

The judgment, including the terms imposed for appellant's grant of probation, is affirmed. Ruvolo, P.J., We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A124427 – The People, v. Robert Nathaniel Bracy.

The conviction and judgment are affirmed. Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A123696 – The People, v. Bryan Anthony Douglas.

The judgment is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

A123914 – San Francisco Unified School District ex rel. Manuel Contreas et al., v. Laidlaw Transit, Inc., et al.

The trial court's dismissal of the Complaint's first cause of action violation of section 12651, subdivision (a)(1), is reversed, and the matter is remanded for further proceedings consistent with this decision. Plaintiffs are awarded their costs on appeal. Simons, J., We Concur: Jones, P.J., Needham, J. (Certified for Publication.)

A122030 – The People, v. Jennifer McPike.

The conviction for petty theft under count 1 is reversed. The conviction for receiving stolen property under count 6, along with the remainder of the judgment, is affirmed. Needham, J., We Concur: Jones, P.J., Simons, J. (Certified for Partial Publication.)

A125659 – Page Mill Management, LLC et al., v. City of East Palo Alto et al., Woodland Park Management, LLC et al., v. City of East Palo Alto Rent Stabilization Board et al.

The order, dated April 7, 2009, is reversed to the extent that it ordered City to pay Landlords' attorney fees. City is to recover costs on appeal. Bruiniers, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A126926, A126927 – Gwendolyn M. et al., v. The Superior Court of Alameda County, Alameda County Social Services Agency, R.P.I.

Friday, February 26, 2010(Continued)

The orders to show cause is issued on January 21, 2010, are discharged. The petitions for an extraordinary writ are denied. Jones, P.J., We Concur: Needham, J., Bruiniers, J. (Not for Publication.)

A125013 – John O'Rourke, v. RMH Partnership, LLC et al.

The judgment is affirmed. Jones, P.J., We Concur: Simons, J., Needham, J. (Not for Publication.)